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10/726,034

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Oleg Shikhman

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23413 7590 07/24/2009
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EXAMINER

YABUT, DIANE D

ART UNIT

PAPER NUMBER

3734

NOTIFICATION DATE

DELIVERY MODE

07/24/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/726,034 | Applicant(s) SHIKHMAN ET AL. | |
| | Examiner DIANE YABUT | Art Unit 3734 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/18/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment received on 08/19/2008.

The examiner acknowledges the amendments made to the claims.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 06/18/2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-4, 6-10, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by **Green et al.** (U.S. Patent No. **5,478,003**).

Green et al. disclose a handle assembly comprising a trigger member **1020** movable in a proximal and distal direction, a safety button **1025**, wherein the trigger member is not movable until the safety button is depressed, a first side and a second side (or lateral sides of housing **1012**) relative to and distinct from the proximal and distal axis direction, the safety button slidable from the first side to the second side and from the second side to the first side (Figures 90-93). The button has a pin **1037** having

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an engageable end and extends through either side of the handle assembly. The button has a first pin (external part of **1037**) extending through the first side and a second pin (any interior part of **1037**) extending through the second side. The button has a first side rib adjacent to the first pin, a second side rib adjacent to the second pin, and a middle rib, with a first side gap (where spring **1037b** is disposed) is located between the first side rib and the middle rib, and a second side gap **1037a** is located between the second side rib and the middle rib. The trigger member includes a safety button engaging member **1039a**, wherein, if the engageable end of the pin of the safety button is not depressed, then the safety button engaging member of the trigger will abut a rib (Figure 92) when an attempt is made to move the trigger, and further wherein, if the engageable end of the pin is depressed, then the safety button engaging member of the trigger will slide between a pair of adjacent ribs (Figure 93). The safety button engaging member is upturned, or a hook shape. The trigger has a spring receiving member **1020a** with a trigger spring **1049** connected between the spring receiving member **1020a** and a protrusion (any of the members of **1032**) within either the first side or the second side, as in Figure 93. An adjustment screw for adjusting length of a rod that extends from a distal end of the handle assembly and is adjustable only prior to securing the first side to the second side is disclosed, for instance, the adjustment screw being any of the pins attached to rods or levers seen in Figure 91, which adjust the length that the rod extends (pivots away) relative to a distal end of the handle assembly.

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4. Claims 1, 5, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by **Hagle** (U.S. Patent No. **4,719,713**).

Hagle discloses a trigger member **12**, the trigger member movable in a proximal and distal direction, a safety button **13**, wherein the trigger member is not movable until the safety button is depressed, a first side and a second side relative and distinct from the proximal and distal axis direction, the safety button slidable from the first side to the second side and from the second side to the first side (Figures 1-5). A first spring **49** surrounds a first pin **47** and a second spring **49** surrounds a second pin **48**, wherein the first side each include an opening (into housing **40**) for passing the first pin and the second pin, respectively, each opening including a pocket (within housing **40**) for seating the first spring and the second spring, each pocket having a greater diameter than a diameter of each opening (Figure 5).

Response to Arguments

5. Applicant's arguments with respect to claims 1 and 3-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3734